

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

DAVID W. MAYER, §  
Plaintiff, §  
v. § C.A. NO. 1:09-CV-1018  
GOLDEN RULE INSURANCE §  
COMPANY and UNITED HEALTHCARE §  
INSURANCE COMPANY, §  
Defendants. §

**DEFENDANT'S MOTION TO COMPEL**

Defendants move to compel discovery from Plaintiff and state:

**I. INTRODUCTION**

This lawsuit centers on Plaintiff's claim for medical benefits under a health insurance policy. Defendant Golden Rule Insurance Company rescinded the policy after it discovered the application for insurance omitted material medical history. Plaintiff filed this suit against Defendants on November 24, 2009, which Defendants removed to this Court. The discovery deadline is November 1, 2010.

**II. THE DISCOVERY**

On March 18, 2010, Defendants served their request for production of documents ("Requests") and their first set of interrogatories ("Interrogatories") on Plaintiff. True and correct copies of the Requests and Interrogatories, as well as the March 18, 2010 transmittal letter, are attached collectively as Exhibit A.

### **III. THE MOTION**

Defendants have not received any answers to the Interrogatories or responses to the Requests. Defendants therefore move to compel Plaintiff to (1) answer the Interrogatories and (2) respond to the Requests and produce all responsive documents.

Pursuant to FED. R. CIV. P. 34, Plaintiff's answers and responses to the Interrogatories and Requests were due by April 10, 2010. Defendants transmitted the discovery by certified mail, return receipt request and sent follow-up correspondence to Plaintiff's counsel on June 16, 2010.

Despite repeated assurances that Plaintiff's responses and answers would be forthcoming, none have materialized. *See Ex. B.*

Among other things, Defendants need Plaintiff's responses before conducting certain nonparty discovery. For example, Defendants need Plaintiff to identify his medical providers before they can obtain necessary medical records and then take Plaintiff's deposition. Defendants cannot adequately prepare a defense to Plaintiff's claims within the deadlines set by the Court without the requested discovery and any additional discovery prompted by the responses. Defendants therefore move the Court to order Plaintiff to answer the Interrogatories and respond to the Requests, without objection.

### **IV. RELIEF REQUESTED**

Defendants request that the Court order Plaintiff, within ten (10) days of the order granting this motion, to:

- (1) respond to the Requests, without asserting objections, which are waived, and produce responsive documents; and
- (2) answer the Interrogatories without asserting objections, which are waived.

Respectfully submitted,

By: s/ Raymond E. Walker  
Andrew G. Jubinsky  
State Bar No. 11043000  
Raymond E. Walker  
State Bar No. 24037663

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ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF CONFERENCE**

The undersigned counsel conferred with counsel for Plaintiffs regarding the Motion to Compel and Plaintiffs have not responded.

s/ Raymond E. Walker  
Raymond E. Walker

**CERTIFICATE OF SERVICE**

This is to certify that a true and exact copy of the foregoing document has been served via facsimile to Jonathan C. Juhani, Attorney at Law, 985 I-10 N, Suite 100, Beaumont, Texas 77706, on the 23rd day of July, 2010.

s/ Raymond E. Walker  
Raymond E. Walker